

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:
BRADFORD G. ADDISON
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11 SOUTH MERIDIAN STREET
INDIANAPOLIS, IN 46204

PCT

NOTIFICATION OF TRANSMITTAL OF
INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

(PCT Rule 71.1)

Date of Mailing
(day/month/year)

01 OCT 2004

Applicant's or agent's file reference

31725-73544

IMPORTANT NOTIFICATION

International application No.

International filing date (day/month/year)

Priority date (day/month/year)

PCT/US03/32706

16 October 2003 (16.10.2003)

18 October 2002 (18.10.2002)

Applicant

UNIVERSITY OF GEORGIA RESEARCH FOUNDATION

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

Name and mailing address of the IPEA/US

Mail Stop PCT, Attn: IPEA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (703) 305-3230

Authorized officer

Leon Lankford

Telephone No. 571-272-1600

Form PCT/IPEA/416 (July 1992)

HB10/5

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 31725-73544	FOR FURTHER ACTION		See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/US03/32706	International filing date (<i>day/month/year</i>) 16 October 2003 (16.10.2003)	Priority date (<i>day/month/year</i>) 18 October 2002 (18.10.2002)	
International Patent Classification (IPC) or national classification and IPC IPC(7): A61K 35/74 and US Cl.: 424/93.1, 93.4, 93.45			
Applicant UNIVERSITY OF GEORGIA RESEARCH FOUNDATION			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of report with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 11 May 2004 (11.05.2004)	Date of completion of this report 16 September 2004 (16.09.2004)
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer Leon Lankford <i>J. Roberts for</i> Telephone No. 571-272-1600

I. Basis of the report

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed.
- ☒ the description:
pages 1-26 _____ as originally filed
pages NONE _____, filed with the demand
pages NONE _____, filed with the letter of _____
- ☒ the claims:
pages 27 and 28 _____, as originally filed
pages NONE _____, as amended (together with any statement) under Article 19
pages NONE _____, filed with the demand
pages NONE _____, filed with the letter of _____
- ☒ the drawings:
pages 1-5 _____, as originally filed
pages NONE _____, filed with the demand
pages NONE _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
pages NONE _____, as originally filed
pages NONE _____, filed with the demand
pages NONE _____, filed with the letter of _____

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. STATEMENT**

Novelty (N)	Claims <u>2-4, 6, 8-9, 11-12</u>	YES
	Claims <u>1, 5, 7, 10, 13</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-13</u>	NO
Industrial Applicability (IA)	Claims <u>1-13</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1, 5, 10 & 13 lacks novelty under PCT Article 33(2) as being anticipated by Nisbet et al (59151977).

Nisbet teaches a method of inhibiting *Salmonella* in a swine by administering a probiotic anti-*Salmonella* bacteria in the swine's food. The reference anticipates the claim subject matter.

Claims 1, 7, 10 & 13 lack novelty under PCT Article 33(2) as being anticipated by Nisbet et al (5478557).

Nisbet teaches a method of inhibiting *Salmonella* in fowl by administering a probiotic anti-*Salmonella* bacteria in the fowl's food. The reference anticipates the claim subject matter.

Claims 1-13 lack an inventive step under PCT Article 33(3) as being obvious over Nisbet et al and/or Nisbet et al.

The Nisbet patents teach methods of inhibiting *Salmonella* in various animals by administering a probiotic anti-*Salmonella* bacteria in the animal's food. The references don't teach all the animals claimed or all the probiotic strains claimed however the claimed invention lacks an inventive step because it would have been obvious to a routineer in the art of microbiology/food science to use any recognized/identified anti-*Salmonella* bacteria in the inventions of Nisbet. It would also have to obvious to apply the teachings of the patents to other animals.

Claims 1-13 meet the criteria set out in PCT Article 33(4), and thus are industrial applicability because the subject matter claimed can be made or used in industry.

PATENT COOPERATION TREATY

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NOTE OF INFORMAL COMMUNICATION WITH THE APPLICANT

(PCT Rule 66.6)

International application No. PCT/US03/32706	Applicant's or agent's file reference 31725-73544	Date of informal communication (day/month/year) 16 September 2004 (16.09.2004)
Applicant UNIVERSITY OF GEORGIA RESEARCH FOUNDATION		

<u>Communication</u> <input checked="" type="checkbox"/> by telephone <input type="checkbox"/> personal	<table style="width: 100%;"> <tr> <td style="width: 33%;"><u>Participants</u></td> <td style="width: 33%;"><input type="checkbox"/> Identity checked</td> <td style="width: 33%;"><input checked="" type="checkbox"/> authorization checked</td> <td style="width: 33%;"><input type="checkbox"/> personally known</td> </tr> <tr> <td><input checked="" type="checkbox"/> Applicant: UNIVERSITY OF GEORGIA RESEARCH FOUNDATION</td> <td colspan="3"></td> </tr> <tr> <td><input checked="" type="checkbox"/> Agent: Bradford Addison</td> <td colspan="3"></td> </tr> <tr> <td><input checked="" type="checkbox"/> Examiner(s): Leon Lankford</td> <td colspan="3"></td> </tr> </table>	<u>Participants</u>	<input type="checkbox"/> Identity checked	<input checked="" type="checkbox"/> authorization checked	<input type="checkbox"/> personally known	<input checked="" type="checkbox"/> Applicant: UNIVERSITY OF GEORGIA RESEARCH FOUNDATION				<input checked="" type="checkbox"/> Agent: Bradford Addison				<input checked="" type="checkbox"/> Examiner(s): Leon Lankford			
<u>Participants</u>	<input type="checkbox"/> Identity checked	<input checked="" type="checkbox"/> authorization checked	<input type="checkbox"/> personally known														
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<input checked="" type="checkbox"/> Agent: Bradford Addison																	
<input checked="" type="checkbox"/> Examiner(s): Leon Lankford																	


Summary of communication:

Mr. Addison authorized the PTO to send an IPER in lieu of a written opinion in order to expedite processing of this case.

☐ An extension of time limit is granted (Form PCT/IPEA/427).

☒ A copy of this note is being sent to the applicant with Form PCT/IPEA/429.

PCT/IPEA/429 416 5409

Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer Leon Lankford  Telephone No. 571-272-1600
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